(5)

1 SINGLE BENCH

CF1002

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition (C) No. 15 of 2006

PETITIONER/:
(Plaintiff)

Smt. Sunita Gupta,
Wife of R.S. Gupta,
Aged about 50 years,
R/o J-86, LIG Colony,
Indore, District: Indore,
Madhya Pradesh,
Presently residing at E-1/1,
Government Residential
Complex, Devendra Nagar,
Raipur, Chhattisgarh.

P.R. No. 77-57/06
Presented by Shri Krishnen Sahu
dated 22/12/06

- Versus -

RESPONDENTS/:
(Defendants)

1. Raipur Development Authority, Through its Chief Executive Officer, Raipur, Chhattisgarh.

2. Smt. Sitadevi Motwani,
W/o Late Dhanraj Motwani,
Aged about 40 years,
R/o C-40/1, Sector-1,
Devendra Nagar, Raipur,
Chhattisgarh.

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, DIRECTIONS ETC., IN THE NATURE OF MANDAMUS, CERTIORARI AND/OR ANY [illegible] OF LIKE NATURE

XI-HC-78

(52)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(C).(ND).15/2007 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

18-1-2007

Shri Rajeev Shrivastava, Advocate for the petitioner.

Heard on admission.

By this petition, the petitioner has impugned the order dated 8-11-2006 passed by the 8th Additional District Judge (F.T.C.), Raipur in Civil Suit No. 39A/2004 whereby the application for amendment of the plaint of the petitioner has been rejected.

Learned counsel for the petitioner submits that the suit was filed for possession on the allegations that the disputed house was allotted to the petitioner under Hire Purchase Scheme in the year 1977, however an application for amending the plaint was filed on 25-7-2006 to amend the relief clause of the plaint to the effect that the possession be delivered after execution of the lease deed and the same has been rejected firstly on the ground that the relief in question could be claimed by the petitioner when he filed the suit in the year 1985 and the same has been preferred after the period of limitation which cannot be allowed.

Learned counsel for the petitioner submits that the pleading of Hire Purchase already existed in the plaint and the lease deed can be executed even after delivery of the possession after fulfilling necessary formalities. In these circumstances, Court below ought to have allowed the amendment in the relief clause.

I have heard the learned counsel for the petitioner. I have perused the impugned order. It is not in dispute that initially the suit was filed in the year 1985, subsequently the plaint was returned to the petitioner for filing the same before the appropriate Court and

P.T.O.

XI-HC-78

(53)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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ultimately in the above circumstances, the suit was filed in the year 1995 before the trial Court. It is also not disputed that the evidence of the plaintiff has already been closed and the case is fixed for defence evidence.

In the aforesaid circumstances, considering the fact that the petitioner proposes amendment in the plaint nearly after 22 years of filing the above suit and that too when the suit is fixed for recording evidence of defence witnesses, this Court is of the considered opinion that the proposed amendment has been rightly rejected in view of the provisions to Order 6 Rule 17 of the Code of Civil Procedure and there is no substance in this petition and the same is dismissed *in limine*.

Sd/-
Dhirendra Mishra
Judge

P.T.O.

9.2.07